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MEMORANDUM

To: Senate Committee on Judiciary

From: Office of Revisor of Statutes

Date: March 11, 2020

Subject: Bill Brief on HB 2521

House Bill 2521, as amended by House Committee, enacts the revised uniform athlete agents act and repeals the uniform athlete agents act.

Section 1 names the act, and section 2 provides the definitions that are used throughout the act. Section 3 provides that a nonresident athlete agent appoints the secretary of state for service of process. The secretary of state may adopt rules and regulations to carry out the provisions of this act, and any rules and regulations adopted under the old act are continued until modified by the secretary. All administrative proceedings pursuant to the act will be conducted in accordance with the Kansas administrative procedure act.

Section 4 provides that a person shall not act as an athlete agent without a certificate of registration. A person may act as an athlete agent before being issued a certificate if a student athlete initiates communication with the individual and the individual submits an application 7 days after an initial act that requires registration. An agency contract that violates this section would be void.

Section 5 provides the information required to be contained in the application to become an athlete agent. Section 6 requires the secretary of state to issue a certificate of registration to an applicant who complies with section 5. It also provides that the secretary of state may refuse to issue a certificate if the secretary determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent, and lists acts the secretary may consider in making that decision. An athlete agent may apply to renew their registration by submitting an application in a form prescribed by the secretary. A certificate of registration is valid for 2 years.

Section 7 allows the secretary of state to limit, suspend, revoke or refuse to renew a registration for conduct that would justify refusal to register under section 6. Section 8 allows the secretary to issue a temporary certificate of registration while an application is pending. Section 9 provides the fees for licensure.

Section 10 lists the items required to be contained in an agency contract. It also provides the warning required to be contained in an agency contract. Such contract must contain a separate record signed by the student athlete acknowledging that signing the contract may result in a loss of eligibility to participate in the athlete's sport. A student athlete may void a contract that does not comply with this section, and any consideration does not have to be returned.

Section 11 requires an athlete agent to give notice of the existence of a contract with an athlete to the athlete's educational institution. The athlete must inform the athletic director of the educational institution. If an athlete has a relationship with an agent and then subsequently enrolls in an educational institution, the agent shall notify the institution of the relationship no later than 10 days after enrollment if the agent knows or should have known of the enrollment and the relationship was motivated by the intention of the agent to recruit the athlete to enter a contract or the agent recruited the athlete before enrollment. An agent shall give notice to the athletic director of an educational institution where a student athlete is enrolled before the agent communicates with the athlete or another individual in order to influence the athlete to enter into an agency contract. An educational institution that becomes aware of a violation of this act by an athlete agent is required to notify the secretary of state.

Section 12 provides that an athlete may cancel an agency contract by giving notice to the agent no later than 14 days after the contract is signed, and an athlete may not waive this right. If an athlete cancels a contract, they are not required to pay any consideration under the contract or return any consideration received.

Section 13 requires athlete agents to create and retain certain records for 5 years. Section 14 prohibits an athlete agent from performing various actions. Violation of the section is a class A nonperson misdemeanor and the agent could be subject to a civil fine up to \$25,000. Section 15 provides the circumstances under which an educational institution or athlete may bring an action for damages against an athlete agent. The House Committee on Judiciary removed

subsection (c), a provision that would have granted an educational institution immunity from certain claims by a student athlete.

Section 16 creates the uniform athlete agents act fee fund and abolishes the athlete agent registration fee fund. Section 17 provides for consideration to be given to the need to promote uniformity in the law. Section 18 describes the extent to which this act impacts the electronic signatures in global and national commerce act, and Section 19 is a severability clause.

The House Committee on Judiciary also made technical corrections throughout the bill.